IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 30404 of 2007(T)

LAR.124/1994 of ADDL.SUB COURT,KOLLAM

.....

PETITIONERS:

----

1. GAURIKUTTY SATHIAMMA, AGED 70 YEARS,
W/O.LATE K.N.KRIPAKARAN, KARUTHERI HOUSE,
KAIPUZHA MURI, KULANADA VILLAGE, KOZHENCHERY TALUK
PATHANAMTHITTA DISTRICT.

2. K.SHAJ, AGED 38 YEARS,
S/OLATE K.N.KRIPAKARAN, KARUTHERI HOUSE,
KAIPUZHA MURI, KULANADA VILLAGE, KOZHENCHERY TALUK
PATHANAMTHITTA DISTRICT.

3. K.SHEEJA, AGED 36 YEARS,
D/O.LATE K.N.KRIPAKARAN, KARUTHERI HOUSE,
KAIPUZHA MURI, KULANADA VILLAGE, KOZHENCHERY TALUK
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

----

1. STATE OF KERALA REPRESENTED BY THE
DISTRICT COLLECTOR, KOLLAM.

2. THE HINDUSTAN CORPORATION LTD
REPRESENTED BY ITS REGIONAL MANAGER,
REGIONAL OFFICE, HINDUSTAN CORPORATION LTD.,
KOCHI.

R2 BY ADV. SRI. A.M. SHAFFIQUE
GOVERNMENT PLEADER SMT. PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

==========

W.P.(C) No.30404 OF 2007

==========

Dated this the 15th day of October 2007

JUDGMENT

This writ petition is filed aggrieved by the decision in L.A.R.No.124/1994 of the Addl.sub Court, Kollam to the limited extent that the court while pronouncing final judgment and preparing the cause title omitted to include the name of the legal representatives of deceased Narayanan Kripakaran. The short facts are that during the pendency of the land acquisition proceedings, the original claimant died and his legal representatives moved an application for impleading them as additional claimants 2 to 4. Unfortunately I am told no order has been passed on that application. But the court below also proceeded on the assumption that it has been done and permitted one of the additional claimant to be examined as a witness and passed an award and the wording of the award also would reveal that the word claimants is used instead of the word claimant. I find that this is only a mistake committed by the court below. But as things stand now, award is granted in favour of a person who is dead much prior to the passing of the award. So it requires correction. This court has held in

the decisions reported in ***Paru v. Devaki Varassiar(1992(2) KLT 687***) and in ***Uma Andarjanam v. Neelakandan Namboodiri(2001(2)KLT SN 16)*** that the proper remedy for the legal representatives is to move the court concerned to get themselves brought on record and proceed. In this case they have already moved an application and I feel that the court below has proceeded as if the petitions have been allowed, but without writing anything on that application. Only formal orders have to be passed on those applications and no further evidence or no further enhancement of compensation is necessary in this case. The 2nd respondent has no objection and it had already deposited the amount.

The writ petition is disposed of directing the present writ petitioners to move an application for reopening/reviewing the award with a prayer to allow the application which is already before court, then carry out the amendment in the cause title of the award and making it clear that additional claimants 2 to 4 are entitled to the compensation. If this is done, there will not be any difficulty for any of the parties in getting the money and I direct the court below that let this application be disposed of within 10 days from

the date of receipt of the application filed by the petitioners.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-